IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21812 of 2004

Between:

Sri B. Subash, S/o Late B. Jaya Raj, E.No. 76018,
Ranigunj-II Depot, Secunderabad, R/o H.No. 21-1-339, Pattarigatti,Hyderabad.

..... PETITIONER

AND

The Depot Manager, APSRTC, Ranigunj-II Depot, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ more particularly in the nature of Certiorari, calling for the records and quash the impugned order vide Proceedings No. AMP/377(1)2003-RNG-II, dt. 31-8-2004 passed by the Respondent and consequently direct the Respondent to immediately stop the recovery of the amount from the monthly salaries of the petitioner and repay the recovered amount of salary in the months of September, 2004 and October, 2004

Counsel for the Petitioner:MR.A.THIRUPATHI REDDY

Counsel for the Respondent : MR.V.T.M.PRASAD, STANDING COUNSEL

The Court made the following :

ORDER:

This writ petition is filed to quash the proceedings No.AMP/377(1)/2003-RNG-II, dated 31.8.2004 passed by the respondent.

According to the learned counsel for the petitioner, basing on the Audit Report, a show-cause notice dated 5.2.2004 was issued to the writ petitioner calling upon him to give his explanation, and the same was served on the petitioner on 27.3.2004. The writ petitioner made available copies of the representation filed before the respondent-corporation on 31.3.2004 and 15.9.2004. It is the case of the petitioner that within 36 days, he filed a representation to furnish the copy of the audit report dated 29.8.2003 and his leave particulars from 2001-2002 and 2002-2003 and thereafter, after a lapse of six months, the present impugned proceedings have been passed.

The learned counsel for the petitioner vehemently contended that without affording a reasonable opportunity to the petitioner, impugned proceedings have been passed and therefore, the impugned proceedings have to be set aside and the matter has to

be remitted to the respondent-corporation for taking appropriate decision after giving reasonable opportunity to the writ petitioner.

On the other hand, the learned counsel appearing for the respondent-corporation contended that in spite of giving show-cause notice, no explanation has been given by the petitioner and therefore, the impugned proceedings have been passed and that the said proceedings do not suffer from any legal infirmities, so as to call for interference of this Court.

Though the show cause notice dated 5.2.2004 was issued calling upon the writ petitioner to give his explanation as to why an amount of Rs.46,966/- should not be recovered in 20 installments, it is not known as to when it was served on the writ petitioner. According to the writ petitioner, he received the same on 27.3.2004 and immediately he filed a representation before the respondent-corporation on 31.3.2004 to furnish the copy of the audit report which is the basis for recovery of the amount and also his leave particulars. The same has not been considered. Thereafter after a lapse of six months, impugned proceedings have been issued, ordering recovery of an amount of Rs.46,966/- in twenty installments.

As seen from the show-cause notice, it is clear that the Audit Report which is the basis for recovery of an amount of Rs.46,966/- was not supplied to the writ petitioner. It appears that it is a case of excess availment of leave by the writ petitioner along with the other employees of the Ranigunj-II Depot. Whether it is a case of excess availment of leave or not, and the documents, as required by the writ petitioner with regard to the leave position, during the year 2001-2002 and 2002-2003, are very much essential. So, without supplying the documents, it is not possible for the writ petitioner to give an explanation. Therefore, reasonable opportunity has to be afforded to the writ petitioner, so that he will give an explanation.

Hence, the impugned order dated 31.8.2004 ordering recovery of an amount of Rs.46,966/- is set aside. Pursuant to the show-cause notice dated 5.2.2004, the petitioner is required to submit his explanation within one week from the date of receipt of a copy of the Audit Report and the leave particulars for the years 2001-2002 and 2002-2003 and thereafter, an appropriate decision can be taken by the respondent-corporation, in accordance with law.

The writ petition is disposed of accordingly.

_____

06.12.2004

bsv

To

1. The Depot Manager, APSRTC, Ranigunj-II Depot, Secunderabad.

2. 2CD copies